1951

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Examined

S. Belgaum 3/5/1.

Legal Dept.

A Branch.

Subject: Suit Belgaum.

In the Court of the Civil Judge (S.D)
Belgaum Civil Suit No. 40 of 1950.

(Appasayappa Ac)ibetti & ors. .. Plts

Vs.

The State of B'bay & ors. -- Dfts

Re. For permanent injuction

P = 11

E

S. Belgaum 3/5/1

C O N T E N T S.

Legal Department File No. S-Bel-3/51.

Sr.No.	R.I./O.No.	Subject	Pages.

Suits Belgaum.

In the Court of the Civil Judge (S.D.)
Belgaum.

C.S. No. 40 of 1950

A.B. Adibatti and ors.

V/S

The State of B'bay and others

For permanent injunction.

1-26.

1 9

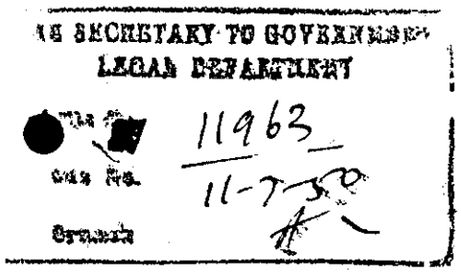
Letter.

To:

The Remembrancer of Legal Affairs.
Bombay.

Subject:- Civil Suit No. 40 of 1950.
Report under rule 118 of LORs.

Reference:Your D.O.Letter No.8658 dt.23-6-50.



No.L.A.W.- 860. Belgaum. 7th July 1950.

The information regarding suit No.40 of 1950. as required under rule 118(1) of the Law Officers Rules is given below:=

(i) Regular Suit No.40 of 1950.

(ii) Filed on 18-1-50 in the Court of the Civil & Judge, S.D.Belgaum;

(iii) (1) Aparayappa Rayappa Adibatti of
of Melavanki tal: Gokak.
(2) Bhimrayappa Sanmallappa Adiba-
-tti of Melawanki Tal: Gokak. } Pltff.
(3) Laxmappa Laxmappa Kittur -do-
(4) Ramappa Balappa Dombar. -do-

VS.

(1) Irappa Sabanna Hedaginhal of
Melvanki tal: Gokak.
(2) Sattyappa Balappa Vanaki
of Melavanki tal: Gokak. } Defft.
(3) The State of Bombay.

(iv) Claims for C.F. and Jurisdiction:- Rs. 5/-

(v) First date fixed for filing the written statement was 16-3-1950. The next date fixed is 24-7-50;

(vi) Notice of suit under section 80 of C.P.C. was delivered on 26-9-1949;

2. The following papers are sent herewith as required by rule 118(2) of LORs;

(a) A copy of the plaint in English;
(No documents appear to have been annexed to the plaint).

(b) Full & detailed statement of facts & the grounds on which it is proposed to defend the suit (in duplicate)-

(c) Case papers in one file. (PP 1-60).

3. The Dist. Govt.Pleader,Belgaum is being requested to take an adjournment till the Govt. sanction is received. Necessary instructions to defend the suit may please be issued, early.

V-7/7. For Collector of Belgaum.

Copy w/cs to the Dist.Govt.Pleader, Belgaum ,with a request to take a long adjournment.

Civil Suit No. 40/50 of 1950.

In the Court of the Civil Judge, Senior Dn. Belgaum.

1. Aparayappa Rayappa Adibatti, age 47 Lingayat, Agriculture, of Melvanki, taluka Gokak.
2. Bhimrayappa Sanmallappa Adibatti. Age: 42, rest do.
3. Laxmappa Laxmappa Kittur, age 36, Kurbur, Agriculture, rest do.
4. Ramappa Balappa Dombar, age 31, Dombar Agriculture, rest do.

Plaintiffs.

V.S.

1. Irappa Sabanna Hedginahl, age: 35, Lingayat, Agriculture, of Melvanki taluka Gokak.
2. Sattyappa Balappa Vanaki, age 30, rest do.
3. The Provincial Government of Bombay Bombay, through the Collr. of Belgaum.

Defendents.

Claim Rs.25/- for court fees & jurisdict

The plffs. state as follows:-

1. In the village of Melvanki, tal:Gokak, there is an open site belonging to the Govt. measuring north-south 28½ cubits & east-west 7 cubits. To the east of this site there is a house belonging to Defts.1 & 2, purchas--ed by them, about 4 years ago. To the south there is an open space and the house of the Plffs, abutting the suit site. To the west runs a road & to the north there is a 'Kenchayadevar Temple'.

2. In this suit site there are four grain pits, which are sund & constructed by the fore-fathers of Plffs more than (100) hundred years back for the purpose of storing grains therein. These grain pits which are situated close to the western wall of the Defts' house are continuous--ly, openly & as of rights being exclusively used by the Plffs. & their fore-fathers. The open site round about the site is also continuously, openly & as of rights be--ing exclusively used by the Plffs & their fore-fathers for keeping their carts & others agrl. implements for over 100 years, to the knowledge of the Govt. & the Defts & their predecessors-in-title. So the Plffs. have acquir--ed the right of casement over the suit site by long & continuous acquiesance and knowledge of the Govt., the Defts. & their predecessors-in-title & all concerned. The Plffs. are in peaceful enjoyment of the right at all mat--erial times. Hence the Govt. or Defts. have no right to onstruct the use of the suit site by Plffs.

3. The Defts.1 & 2 demolished the house facing north after purchase & are constructing a new house on the old house site & they are newly fixing the door frames & a mori in the western wall of the house & are intending & fixing a water pipe(conduict) on it over the roof of the west--ern wall. The defts. have no right to discharge mori water and the western roof water on the suit site & their predecessors-in-title had not used the suit site in any way and at any time. The Defts.1 & 2 have also no right over the suit site to pass to & from the house through the new doors fixed in the western wall & they have also no right to pass roof water on the said suit site. The Deftsl & 2, by fixing new door frames, const ucting mori & fixing a pipe to carry rain water over the western wall, are likely to allow waste water through the mori

mori . . . .
and rain water from the roof pipe to accummulate on the percolate the same in the suit site and consequent-ly destroy permanently the casement rights,claimed & enjoyed by the Plffs over the suit site and cause damage or greatly dimish the utility of the grain pits. The Defts.1 & 2 are thus interferring with the Plffs' enjoyment of right to the possession of the suit site & they have also piled pieces of stones unauthorisedly on the suit site. The Defts.1 & 2 are likely to cause irrepairable loss & damage to the Plffs. if they are not restrained from completing the house.i.e.pttuing roof and water conduict, discharging water through the mori & making use of the suit site to goto & from their house.Hence this suit to restrain the Defts.per-manently from obstructing the Plffs from enjoyment & possession of the suit site.

4. The cause of action for the suit arose in the month of Aug.1947 which Defts.1 & 2 obstructed the Plffs wahiwat on the suit site.

5. The Plffs.had instituted a civil suit No.74/47, against the Defts.1 & 2, in the court of the Civil Judge Gokak on the same cause of action. The Govt. had not been impleded as a party. The suit,however,was dismis-sed on the ground that the Govt. being interested in the suit,was not made a party. An appeal was preferr-ed against the order of dismissal in the court of the Dist.Judge,Belgaum. The appeal was also dismissed. The appellate Court upheld the lower court's decision. The Plffs.are,therefore,compelled to implead the Govt. as party to the suit,though the Govt. has never interferred with the Plffs' peaceful enjoyment of right of casement over the suit site.

6. As the suit is for injuction,the valuation of court fee and jurisdiction has been made by the Plffs. as Rs.5/- and court fee is paid on the same.

7. As the Govt.has been made a party to this suit,the spl.Court has jurisdiction to try this suit.Hence this suit is filed in this court.
7-A) A registered notice of the suit as required under sec.80 of C.P.C. has been duly served on the Plff and Defts.

8. The Plffs.pray for the following reliefs:-
Perpetual injuction be issued restraining the Defts. from:-
(a) making any wahiwat or use over the suit site for passing through the door frames to & from this house;
(b) onstructing or in any way interferring with the Plffs' enjoyment of right of casement over the suit site des-cribed in para 1 above or otherwise doing acts so as to permanently destroy the claims and enjoyment of the right of storing grain in the four grain pits & keeping carts & other agrl.implements there & in particular;
(c) constructing mori & discharging waste & bath water through the mori over the suit site;
(d) Constructing water conduict over the western wall so as to discharge rain water over the suit site;
(e) constructing any katta or anything which obstructs the Plffs in their enjoyment of their casement rights over the suit site;
(f) costs of this suit may be awarded;
(g) other equitable reliefs may be given to the Plffs;
(h) plaint be allowed to be amended whenever necessary.
Belgaum.
24-9-1949.) (1)
(2)
(3)
(4)

5

13

(4)

We (1) Apprayappa Rayappa Adibatti; (2) Bhimrayappa Sanmallappa Adibatti; (3) [illegible] Lax-amappa [illegible]mappa Kitt[illegible] and (4) Ramappa Balappa Dombar; Plffs.or Melvanki, taluka Gokak, District Belgaum, to-day at Belgaum, do hereby solemnly declare that what is stated in paras 1 to 8 is read over and translated to us and the same is true to our knowledge, information and belief.

Belgaum.
24-9-1949.

(1)
(2)
(3)
(4)

Drafted & 24-9-1949.
presented by 18-1-50.
Sd/-x.x.x.
Pleader for
Plaintiffs.

7 21

Belgaum Civil Suit No.40 of 1950.

This is a suit for permanent injunction. The plaintiffs claim the right of easement on Government land.

The suit is defensible.

The plaintiffs have not acquired the right of easement by prescription under section 15 of the Easement Act.

The defence of the suit may be sanctioned on the lines of the accompanying brief.

A-S.

ACR 29/8

Secy RD 30/8/50

REVENUE DEPARTMENT,
SECRETARIAT, BOMBAY.
30-8-50.

filed on
31/8/50

No. 12662

Office of the
Remembrancer of Legal Affairs,

Bombay Castle (Bombay No.1), 4th Sept. 1950.

Subject:- Belgaum Civil suit no 40 of 1950

MEMORANDUM.

The District Government Pleader, Belgaum, is informed that the defence of the suit noted above is sanctioned and he is requested to conduct the same on the lines of the brief, a typed copy of which ~~together with two copies of the written statement~~ is sent herewith in advance.

Papers of the case, in file me received from the Collector accompany.

for Remembrancer of Legal Affairs.

To

The District Government Pleader. Belgaum

Issued
cof 4/9

Submit for signature
Dmg
4/9

kam. 20.4.50.

A.S.

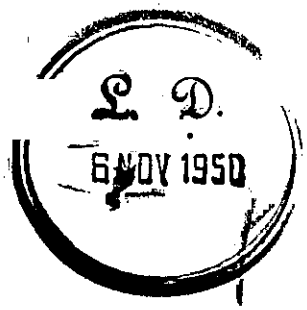
G. Rdsd No. 475 dy 8-1-51
sent to Press.
MM

Await press Copies
MM
8/1/51

No. C.S.10 of 1950
Belgaum, 2nd November 1950.

To

The Remembrancer of Legal Affairs,
B O M B A Y.



S I R,

With reference to your Memorandum No. 12662 dated 4th September 1950, I have the honour to send herewith a draft W.S. in Civil Suit No.40 of 1950, on the file of the Civil Judge, Sr. Dn., Belgaum, for favour of your approval. The same, may please be approved and returned as soon as possible, the next date being fixed on 23-11-1950, for filing the written statement in court.

Yours faithfully.

District Government,
B E L G A U M.

20315
A-7-11-50

L. D.

Draft written statement in Belgaum

Civil suit no 40 of 1948 Subdiv

for approval. The draft W. S

by D. C. P Belgaum (Accompanies

16/11

A.S.dr -

May be approved

16-11.

Sol. (Asst.) approved

16-11-

13 -29

R.O. Suit No. 40/1950.

In the Court of the Civil Judge, S. D.,

at Belgaum.

Aparayappa Rayappa Adibatti and 3 others..... Plaintiffs.

vs.

The State of Bombay ... ... Defendant.

Herein the Written Statement on behalf of Defenant No.3 is as follows :-

(1) The plaint does not disclose any cause of action against this Defendant. It should therefore be rejected.

(2) It is denied that the grain pits and the open site round about them are being used continuously by the Plffs. and their predecessors-in-title and as of right, for over 100 years and to the knowledge of this defendant. The user if any, of the pits and the open site, by the Plaintiffs does not amount to acquisition of easement by prescription. Further, the alleged easement, has not been peaceably and openly enjoyed by the plaintiffs without interruption for sixty years as against this defendant ending within two years next before the institution of this suit. Plaintiff not having filed this suit admittedly within two years of the termination of the prescriptive continuum, the suit is barred by limitation.

(3) In paragraph 4 of the plaint the cause of action for the suit is stated to have arisen in August 1947 when defendants Nos. 1 and 2 obstructed the plaintiffs. The plaintiffs have filed this suit on 18-1-1950. It is, therefore clear that the plaintiffs have not filed this suit within two years of the termination of the prescriptive continuum. Whatever may have been the duration of the period of enjoyment, it is wholly ineffective to establish the easement under section 15 of the Indian Easements Act. Plaintiffs not having acquired easement by prescription, the suit for injunction is not tenable.

(4) The allegation that the plaintiffs have acquired

the/...

the right of easement as against this defendant is denied. User by Plaintiffs, if any, of the suit site for storing grain, keeping carts or agricultural implements, can never amount to acquiescence or knowledge on the part of Government. It can never be said to have been intended as an assertion of right by the plaintiffs on the one hand nor can it be deemed, to have been adverse as against Government on the other. Such user of Government land for any number of years will not invest the plaintiffs with any right of easement.

(5) The Easements Act, defines an easement in the following terms "An easement is a right, which the owner of land, possesses as such for the beneficial enjoyment of that land.....". The definition therefore means that the right claimed must be with reference to the dominent tenement and not in favour of the owner personally. The alleged user by the Plaintiffs does not therefore amount to an easement, it being not the Plaintiffs' case that the user is necessary for the beneficial enjoyment of either their houses or their lands.

(6) Plaintiffs not having established an easement, the suit for injunction does not lie.

(7) The injunction asked for against this defendant, does not call to be considered at all. Since the Plaintiffs have not alleged any obstruction on the part of this defendant.

(8) This defendant does not admit the allegations made as against defendants Nos. 1 and 2 . Plaintiffs, however, should be put to strict proof of the same.

For these reasons, it is contended that the suit be dismissed with costs.

~~Belgaum.~~
2-11-1950.

Dist: Govt; Pleader, Belgaum.

I, B.V.Jakati, District Government Pleader, on behalf of Defendant No.3, named abve, do hereby state that what is stated above is true to my instructions and information.

~~Belgaum.~~
2-11-1950.

Dist: Govt: Pleader, Belgaum.

BM 15.11.

No. 1604

Office of the
Remembrancer of Legal Affairs,
Bombay Castle (Bombay No. 1), 16th Nov. 1950.

Subject:- Civil Suit No. 40 of 1950

MEMORANDUM.

With reference to his letter No. final dated the 2nd Nov 1950 forwarding a draft written statement in the suit noted above for approval, the District Government Pleader, is informed that two copies of the ~~revised~~ approved draft are forwarded herewith.

For Remembrancer of Legal Affairs.

To

The District Government Pleader, Belgaum.

Issued
BM.
20.3. cop 16/11

16/11

A Solr

Suits :

Belgaum.

For permanent injunction.

GOVERNMENT OF BOMBAY.

LEGAL DEPARTMENT.

Resolution No. 475.

Bombay Castle, 8th January 1951.

Letter from the Collector of Belgaum, No. L.A.W. 850, dated the 7th July 1950—

IN THE COURT OF THE CIVIL JUDGE (SENIOR DIVISION), BELGAUM.

Civil Suit No. 40 of 1950.

Aparayappa Bayappa Adibatti and others ... ... Plaintiffs;

versus

The State of Bombay and others ... ... Defendants.

Forwarding the papers in the suit noted in the margin and requesting sanction to its defence.

Memorandum to the District Government Pleader, Belgaum, No. 12662, dated the 4th September 1950—Forwarding a copy of the brief with its accompaniments in advance.

RESOLUTION.—Sanction is accorded to the defence of the suit on the lines of the accompanying brief.

By order of the Governor of Bombay,

P. M. LAD,
Secretary to Government.

G. R., No. 475, L. D., dated the 8th January 1951.

To

*The Revenue Department,
*The Collector of Belgaum,
The District Government Pleader, Belgaum (with two copies of the brief).

*With a copy of the brief.

No. of 1951.

Copy forwarded for information and guidance to

~~25~~ 19

BELGAUM CIVIL SUIT No. 40 OF 1950.

Chronological Statement of Facts.

The plaintiffs have filed this suit against Government and two other defendants for a permanent injunction restraining the defendants from interfering with the plaintiffs' right of easement to use the land mentioned in paragraph 1 of the plaint for storing grains and keeping carts and other agricultural implements, etc.

2. The sketch of the land with the houses of defendants Nos. 1 and 2 and the grain pits are at page 17 of the file.

3. On 2nd September 1947 the plaintiffs filed a Civil Suit No. 74 of 1947 against defendants Nos. 1 and 2 in the Court of the Civil Judge, Junior Division, Gokak, for a permanent injunction as prayed for in the present suit. On 28th February 1949 the suit was dismissed with costs on a preliminary ground that Government was a necessary party to the suit.

4. The plaintiffs preferred an appeal No. 120 of 1949 in the Court of the Joint Judge, Belgaum, but it was dismissed on the same ground on 7th June 1949.

5. On 24th September 1949 the plaintiffs gave notice of suit under section 80 of the Civil Procedure Code and on 18th January 1950 they filed this suit in the Court of Civil Judge, Senior Division, Belgaum.

Grounds of Defence.

It is contended by the plaintiffs in paragraph 2 of the plaint that they have acquired easement by prescription entitling them to use the Government land for storing grain in the four grain pits and keeping carts and agricultural implements thereon. The Government's ownership of the land is admitted by the plaintiffs. The sketch of the land with grain pits and the defendants' houses is at page 17 of the file.

2. Section 15 of the Indian Easements Act lays down the essential conditions for the acquisition of easement by prescription. The relevant portion, necessary for the purpose of the brief, is as under :—

"and where a right of way or any other easement has been peaceably and openly enjoyed by any person claiming title thereto as an easement, and as of right, without interruption, and for sixty years (expl. IV) ..... Each of the said periods of sixty years shall be taken to be a period ending within two years next before the institution of the suit where the claim to which such period relates is, contested". "When the period of enjoyment of an easement by the dominant owner is brought to an end either by servient owner's active obstruc-

tion or by some other circumstance, the dominant owner must, within two years of the termination of the prescriptive continuum file a suit to establish his right. If he fails to go to a Court of Law for more than two years after the continuum of enjoyment has terminated, the continuum of enjoyment of whatever duration would be wholly ineffective to establish an easement under section 15 in any subsequent suit and would irretrievably lose its prescriptive force". (Extract from p. 230 of the Indian Easements Act; by Amin and Shastri, *vide* Chanddevi *vs.* Kirpa, A.I.R. 1947 All. 374).

3. It is alleged by the plaintiffs in paragraph 4 of the plaint that ~~that~~ cause of action for the suit arose in August 1947 when defendants Nos. 1 and 2 obstructed the plaintiffs' vahiwat of the suit site. The plaintiffs filed this suit on 18th January 1950. It is clear from the plaintiffs' admission that plaintiffs have not filed this suit within two years of the termination of the prescriptive continuum and whatever may be the duration of the continuum of enjoyment, it would be wholly ineffective to establish an easement under section 15. It should, therefore, be contended that plaintiffs have not acquired easment by prescription, as alleged by them in paragraph 2 of the plaint.

4. The plaintiffs contend in paragraph 2 of the plaint that they have acquired the right of easement on Government land by a long and continuous acquiescence and knowledge of the Government. User of open Government lands for storing grain, keeping carts and other agricultural implements is common in many villages in India. Such user will never amount to acquiescence or knowledge on the part of Government. It is not intended on one side as an assertion of right nor is it deemed by the other as adverse. It should, therefore, be contended that such user of the Government land for any number of years will not invest the plaintiffs with any right of easement.

5. Under section 15 of the Easements Act, the claimant must enjoy the easement as an "easement". The definition of "easement" is given in section 4 of the Act. It runs thus:—"an easement is a right which the owner or occupier of land possesses as such, for the beneficial enjoyment of that land, to do and continue to do something or to prevent and continue to prevent something being done, in or upon, or in respect of certain other land not his own". The definition means that the right claimed will be in favour of the dominant tenement and not in favour of owner personally. It is not the plaintiffs' case that user alleged by them is necessary for the beneficial enjoyment of their houses or lands. It should therefore be urged that the user alleged by the plaintiffs in paragraph 2 of plaint on Government land is not an easement within the definition of "easement" in the Act.

For these reasons, it should be urged that the suit fails and should be dismissed with costs.

-3/51

No.J- 921 of 1953.
Office of the Dist.Govt.Pleader, Belgaum.
Dated:- 26-11-1953.

From

Shri. P.A.Patil, B.A., LL.B.,
District Government Pleader, Belgaum.

To

The Remembrancer of Legal Affairs, Bombay.

Subject:- Civil Suit No. 40/50.
1/4. Apparayappa Ramappa Adibatti
& three others.... Plffs.
Vs.
1/3. The State of Bombay & 2 others..Defts.

Ref:- Your Memo No.12662/4-9-1950 and Legal Dept.
Resolution No. 475/8-1-51 (LA/-860/7-7-50)..

Sir,

With reference to the subject mentioned above, I have the honour to inform you that the suit is withdrawn on 19-11-1953. The order of the Court runs as under :-

The plffs. are permitted to withdraw the suit with liberty to bring a fresh suit on the same cause of action as per order below Ex.44. The plffs. shall pay costs of the suit to defts. 1 and 2 in one set and to deft. 3 in a separate set before instituting a fresh suit on the same cause of action.

19-11-1953.

Sd/-P.D.Mahatekar.
Jt.C.H.S.D.,Belgaum.

29025 ✓
1/12/53

I informed the Court that before I put in my say I will have to consult the Remembrancer of Legal Affairs, Bombay. The Court asked me to give my say immediately. I strongly objected to the withdrawal at this late stage. The Court however, granted permission to withdraw on the ground that there was a technical defect.

An uncertified copy of the order is kept herewith for your perusal.

Yours faithfully,

District Government Pleader, Belgaum.

Copy Forwarded with Compliments to

The Collector, Belgaum for information.

Submitted for information

1/12

Sol (M)

Reg. Suit No. 40/50.

Ex. 44.

In the Court of the Civil Judge, S.D., Belgaum.

1/4. Apparayappa Ramappa Adibatti of Melwanki & three others.... Plffs.

Vs.

1/2. Irappa Sabanna Hadaginal & another.... Defts.

Herein the application of the plffs Nos.1 to 4 is as under:-

1. The suit is this day fixed for hearing. But the plffs have applied for the appointment of a Commissioner to draw up a sketch (map) of the पेव and to make a report of the full state of things. But that application has been rejected by the Court. Therefore, the suit shall be withdrawn for the reasons stated below :-

(a) Unless a map and a report regarding the पेव in the suit site, the newly built new house of the deft and the eves of that house and the gutter passage made by the deft is placed before the Court, a clear idea regarding the state of things in this suit is not possible.

(b) Besides this the deft has raised a technical and nominal objection that there is no cause of action against deft and as the suit for declaration is not made in clear cut words to go on with the suit in the present state of things is risky to plff. Hence it is prayed on behalf of the plffs, that plffs be permitted to withdraw this suit with liberty to bring a fresh suit on the same cause of action in respect of the same subject matter.

The application may be heard and plffs may kindly be permitted to institute a fresh suit on the same cause of action and this suit may be disposed of.

Belgaum. 19-11-1953.

Sd/- Plffs (1 to 4).

Presented by K.D.Hazeri. pl.
19-11-1953.

For say of the otherside.
Sd/- P.D.Mahatekar.
Jt.C.J.S.D.Belgaum.
19-11-1953.

I strongly object to the granting of permission for withdrawal of this suit with permission to bring a fresh suit. There is no technical defect at all. The application is made at a very late stage. The plff ought to have known his own case before he filed the suit. Hence I pray that permission should not be given to withdraw the suit. The suit may be heard and decided.

19-11-1953.

Sd/- M.R.Patil,
Dist.Govt.Pleader, Belgaum.

There is no technical defect in the suit nor are there any sufficient grounds to justify the withdrawal of the suit with liberty to file a fresh suit. No liberty as prayed for by the plff.be given to institute a fresh suit. Defts. pray for the costs in case the application is granted, and the payment of costs may be made condition precedent to the filing of fresh suit.

19-11-1953.

Sd/- G.P.Kulkarni.
Pl.for defts 2, & 2.

The plffs want to withdraw the suit as it is technically defective. The ground mentioned is that the plffs. have not prayed for a declaration, that they have acquired the easement right as alleged in the plaint. The plaint does not seem to have been properly drafted. The plffs. must claim declaration that they have acquired the easement rights. The defect is fatal to the suit. The suit properly framed should be one for declaration and injunction. I therefore, allow this application and permit the plffs. to withdraw the suit with liberty to bring another suit on the same cause of action.

Deft.3 ought to have been described as the State of Bombay instead of the Provincial Government. The defect has also not got amended by the plffs.

I think however, proper to saddle the plffs with the full costs of the suit of defts.1 and 2 and deft.3 in separate sets. The plffs shall pay the costs to defts.1 and 2 and deft.3 in separate sets before instituting the next suit on the same cause of action.

Sd/-P.D.Mahatekar.
Jt.C.J.J.D.Belgaum,19-11-1953.

Suits:
Belgaum.

For permanent injunction.

GOVERNMENT OF BOMBAY,
Legal Department,
Resolution No. 1243/E
New Secretariat, Foreshore Road,
Bombay, 14th June 1955.

Read Government Resolution, Legal Department No.475, dated the 8th January 1951.

Letter from the District Government Pleader, Belgaum No. J-921 dated the 26th November 1953, stating that the suit noted in the margin was decided by the Joint Civil Judge, Senior Division, Belgaum on the 19th November, 1953, when the following order was passed:-

In the Court of the Civil Judge (Senior Division), Belgaum Civil Suit No.40 of 1950
Aparayappa Bayappa Adibatti and ors. ..Plffs.;
Versus
The State of Bombay and others .....Defts.

"The plffs. are permitted to withdraw the suit with liberty to bring a fresh suit on the same cause of action as per order below Ex.44. The plffs. shall pay costs of the suit to defts. 1 and 2 in one set and to deft. 3 in a separate set before instituting a fresh suit on the same cause of action."

Letter from the District Government Pleader, Belgaum No.J 921, dated the 26th November 1953, forwarding uncertified copy of the order.

RESOLUTION: The result of the suit is recorded.

By order and in the name of the Governor of Bombay,

D.P. Shikhare 11/6

(D.P. Shikhare),
Deputy Secretary to Government.

Original

To

The Revenue Department,
The Collector of Belgaum,
The District Government Pleader, Belgaum.

Submitted for signature.

Nair/11/6/-

11/6

D.S. 11/6

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Submitted

2 : Tikuri S Belgaum 3/5T

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S. Belgaum 3/51
16/6/55